

## § 301.6501(g)-1

without assessment, at any time within 6 years after the return for such year was filed.

### § 301.6501(g)-1 Certain income tax returns of corporations.

(a) *Trusts or partnerships.* If a taxpayer determines in good faith that it is a trust or partnership and files a return as such under subtitle A of the Code, and if the taxpayer is later held to be a corporation for the taxable year for which the return was filed, such return shall be deemed to be the return of the corporation for the purpose of section 6501.

(b) *Exempt organizations.* If a taxpayer determines in good faith that it is an exempt organization and files a return as such under section 6033, and if the taxpayer is later held to be a taxable organization for the taxable year for which the return was filed, such return shall be deemed to be the return of the organization for the purpose of section 6501.

(c) *DISC.* If a corporation determines in good faith that it is a DISC (as defined in section 992(a)(1)) for a taxable year and files a return as such pursuant to section 6011(c)(2), and if the corporation is thereafter held to be a corporation which is not a DISC for the taxable year for which the return was filed, then—

(1) Such return shall be deemed to be the return of the corporation for the purpose of section 6501.

(2) Such return if filed within the time required by section 6072(b) for filing a DISC return shall be deemed to be filed within the time required by section 6072(b) for filing of a return by a corporation which is not a DISC, and

(3) Interest on underpayment and overpayments allowed by chapter 67 of the Code and additions to the tax, additional amounts and assessable penalties allowed by chapter 68 of the Code, when determined by reference to the time for filing of a return, shall be determined by reference to the time required by section 6072(b) for filing of a return by a DISC.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7533, 43 FR 6604, Feb. 15, 1978]

## 26 CFR Ch. I (4-1-10 Edition)

### § 301.6501(h)-1 Net operating loss or capital loss carrybacks.

In the case of a deficiency attributable to the application to the taxpayer of a net operating loss or capital loss carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the net operating loss or net capital loss which results in such carryback may be assessed. In the case of a deficiency attributable to the application of a net operating loss carryback, such deficiency may be assessed within 18 months after the date on which the taxpayer files in accordance with section 172(b)(3) a copy of the certification (with respect to such taxable year) issued under section 317 of the Trade Expansion Act of 1962, if later than the date prescribed by the preceding sentence.

[T.D. 7301, 39 FR 974, Jan. 4, 1974]

### § 301.6501(i)-1 Foreign tax carrybacks; taxable years beginning after December 31, 1957.

With respect to taxable years beginning after December 31, 1957, a deficiency attributable to the application to the taxpayer of a carryback under section 904(d) (relating to carryback and carryover of excess foreign taxes), may be assessed at any time before the expiration of 1 year after the expiration of the period within which a deficiency may be assessed for the taxable year of the excess taxes described in section 904(d) which result in such carryback.

### § 301.6501(j)-1 Investment credit carryback; taxable years ending after December 31, 1961.

With respect to taxable years ending after December 31, 1961, a deficiency attributable to the application to the taxpayer of an investment credit carryback may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused investment credit which results in such carryback may be assessed, or, with respect to any portion of an investment credit

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carryback from a taxable year attributable to a net operating loss or capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed. For purposes of this section a deficiency shall include a deficiency which may be assessed pursuant to the provisions of section 6213(b)(2), but only those arising with respect to applications for tentative carryback adjustments filed after November 2, 1966.

[T.D. 7301, 39 FR 975, Jan. 4, 1974]

### § 301.6501(m)-1 Tentative carryback adjustment assessment period.

(a) *Period of limitation after tentative carryback adjustment.* (1) Under section 6501(m), in a case where an amount has been applied, credited, or refunded under section 6411, by reason of a net operating loss carryback, a capital loss carryback, an investment credit carryback, or a work incentive program credit carryback to a prior taxable year, the period described in section 6501(a) of the Code for assessing a deficiency for such prior taxable year is extended to include the period described in section 6501 (h), (j), or (o), whichever is applicable; except that the amount which may be assessed solely by reason of section 6501(m) may not exceed the amount so applied, credited, or refunded under section 6411, reduced by any amount which may be assessed solely by reason of section 6501 (h), (j), or (o), as the case may be.

(2) The application of this paragraph may be illustrated by the following example:

*Example.* Assume that M Corporation, which claims an unused investment credit of \$50,000 for the calendar year 1968, files an application under section 6411 of the Code for an adjustment of its tax for 1965, and receives a refund of \$50,000 in 1969. In 1971, it is determined that the amount of the unused investment credit for 1968 is \$30,000 rather than \$50,000. Moreover, it is determined that M Corporation would have owed \$40,000 of additional tax for 1965 if it had properly reported certain income which it failed to include in its 1965 return. Assuming that M Corporation filed its 1968 return on March 15, 1969, and that the 3-year period described in section 6501(a) has not been extended, the period prescribed in section 6501(j) for assessing

the excessive amount refunded, \$20,000 (*i.e.*, \$50,000, original amount refunded less \$30,000, correct amount of unused investment credit), does not expire until March 15, 1972, and \$20,000 may be assessed on or before such date under section 6501(j). Under section 6501(m), M Corporation may be assessed on or before March 15, 1972, an amount not in excess of \$30,000 (\$50,000, the amount refunded under section 6411, minus \$20,000, the amount which may be assessed solely by reason of section 6501 (j)).

(b) *Effective date.* The provisions of paragraph (a) of this section apply only with respect to applications under section 6411 filed after November 2, 1966.

[T.D. 7301, 39 FR 975, Jan. 4, 1974]

### § 301.6501(n)-1 Special rules for chapter 42 and similar taxes.

(a) *Return filed by private foundation, plan, trust, or other organization.* (1) A return filed by a private foundation, plan, trust, or other organization (as the case may be) with respect to any act giving rise to a tax imposed by chapter 42 (other than a tax imposed by section 4940), or by section 4975 shall be considered, for purposes of section 6501, to be the return of all persons required to file a return with respect to any such tax arising from such act, notwithstanding that all such persons have not signed the return. In the case of a private foundation that files a Form 990-PF (or a Form 5227 in the case of a nonexempt foundation described in section 4947(a)(2)), which contains questions with respect to such taxes, the filing of such form by such foundation shall constitute the filing of a return with respect to any such act, even though the foundation incorrectly answered such questions.

(2) For purposes of section 4940, the return referred to in this section is the return filed by the private foundation for the taxable year for which the tax is imposed.

(b) *Failure of private foundation plan, trust, or other organization to file.* The period of limitations on assessment and collection described in section 6501 does not begin with respect to any person liable for tax under chapter 42 (other than section 4940) or section 4975 arising from a given act, where the private foundation, plan, trust, or other organization (as the case may be) has